



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,876	03/23/2004	Yuko Nishikawa	81234 7114	2678
37123 7590 10/05/2009 FITCH EVEN TABIN & FLANNERY 120 SOUTH LASALLE STREET SUITE 1600 CHICAGO, IL 60603-3406				
EXAMINER TAYLOR, JOSHUA D				
ART UNIT		PAPER NUMBER		
2426				
MAIL DATE		DELIVERY MODE		
10/05/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/806,876

Applicant(s)

NISHIKAWA ET AL.

Examiner

JOSHUA TAYLOR

Art Unit

2426

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-85/86)
Paper No(s)/Mail Date 6/17/2009
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is in response to an AMENDMENT entered June 17, 2009 for the patent application 10/806,876 filed on March 23, 2004.
2. The Non-Final Office Action of March 17, 2009 is fully incorporated into this Office Action by reference.

Status of Claims

3. Claims 1-20 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heuvelman (Pub. No.: US 2003/0126600) in view of Maissel et al. (Pat. No.: US 6,637,029).

Examiner's Note (EN): ¶11. below applies.

Regarding claim 1, Heuvelman discloses **a processor-based system for performing a method comprising: providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable items of data (Fig. 3, elements 308 and 330, paragraph [0087], lines 11-18 and 37-41); while displaying a selected discrete selectable item of data (paragraph [0049]): using the characterizing descriptors as correspond to another discrete selectable item of data to provide at least one selection criterion (paragraph [0015]); using the at least one selection criterion to identify at least another one of the plurality of discrete selectable items of data (paragraph [0066]); displaying information regarding the at least another one of the plurality of discrete selectable items of data at a time that is temporally proximal to a conclusion of displaying the selected discrete selectable item of data (paragraph [0012]).** Heuvelman, while disclosing that a characterizing descriptor related to a discrete selectable item of data that has just ended (a recent history of content, para. [0015]) may be used to identify another discrete selectable item of data, and further disclosing that this identification may occur before the conclusion of the currently viewed program, Heuvelman does not explicitly disclose wherein characterizing descriptor related to a currently displayed discrete selectable item of data are used to identify another discrete selectable item of data. However, in analogous art, Maissel teaches that a users' program viewing history can be updated in the users' profile before said user has completed viewing said program, such as after a predetermined threshold period viewing time, such as two or five minutes (Figs. 4-6, col. 17, ln. 17-53). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Heuvelman to allow for the currently viewed program to be used to determine a

recommendation for an upcoming program, as the profile information could have been already updated as per the teaching of Maissel.

Regarding claim 2, Heuvelman discloses **wherein providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable items of data further comprises providing access to textual characterizing descriptors as individually correspond to a plurality of discrete selectable items of data** (paragraphs [0018] and [0022]).

Regarding claim 3, Heuvelman discloses **wherein providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable items of data further comprises providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable items of audio/visual content** (paragraph [0009], lines 11-19).

Regarding claim 4, Heuvelman discloses **wherein the plurality of discrete selectable items of audio/visual content are embodied in a plurality of media** (paragraph [0009], lines 11-19).

Regarding claim 5, Heuvelman discloses **a processor-based system for performing a method comprising: providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable items of audio/visual content** (Fig. 3, elements 308 and 330, paragraph [0087], lines 11-18 and 37-41); **while displaying a selected discrete selectable item of audio/visual content** (paragraph [0049]); **identifying at least another one of the plurality of discrete selectable items of audio/visual content for which at least one characterizing descriptor as**

individually corresponds to the at least another one of the plurality of discrete selectable items of audio/visual content that is similar to a characterizing descriptor of another discrete selectable item of audio/visual content (paragraphs [0013]-[0016] and [0066]); **displaying information regarding the at least another one of the plurality of discrete selectable items of audio/visual content** (paragraphs [0012] and [0017]-[0021]). Heuvelman, while disclosing that a characterizing descriptor related to a discrete selectable item of data that has just ended (a recent history of content, para. [0015]) may be used to identify another discrete selectable item of data, and further disclosing that this identification may occur before the conclusion of the currently viewed program, Heuvelman does not explicitly disclose wherein characterizing descriptor related to a currently displayed discrete selectable item of data are used to identify another discrete selectable item of data. However, in analogous art, Maissel teaches that a users' program viewing history can be updated in the users' profile before said user has completed viewing said program, such as after a predetermined threshold period viewing time, such as two or five minutes (Figs. 4-6, col. 17, ln. 17-53). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Heuvelman to allow for the currently viewed program to be used to determine a recommendation for an upcoming program, as the profile information could have been already updated as per the teaching of Maissel.

Regarding claim 6, Heuvelman discloses **wherein the information regarding the at least another one of the plurality of discrete selectable items of audio/visual content is displayed at a time that is temporally proximal to a conclusion of**

displaying the selected discrete selectable item of audio/visual content (paragraph [0012]).

Regarding claim 7, Heuvelman discloses **further comprising responding to a remote control device by triggering the display of the information regarding the at least another one of the plurality of discrete selectable items of audio/visual content** (paragraph [0029]).

Regarding claim 8, Heuvelman discloses **wherein the information displayed regarding the at least another one of the plurality of discrete selectable items of audio/visual content comprises at least one of: a graphic image; a video sequence** (paragraph [0009], lines 11-19).

Regarding claim 9, Heuvelman discloses **wherein the plurality of discrete selectable items of audio/visual content are embodied in a plurality of media** (paragraph [0009], lines 11-19).

Regarding claim 10, Heuvelman discloses **an interactive data display system comprising: characterizing descriptors as individually correspond to a plurality of discrete selectable items of data** (Fig. 3, elements 308 and 330, paragraph [0087], lines 11-18 and 37-41); **a selected displayed discrete selectable item of data** (paragraph [0049]); **control circuitry that: uses the characterizing descriptors as correspond to another discrete selectable item of data to provide at least one selection criterion** (paragraph [0015]); **uses the at least one selection criterion to identify at least another one of the plurality of discrete selectable items of data** (paragraph [0066]); **displays information regarding the at least another one of the plurality of discrete selectable**

items of data at a time that is temporally proximal to a conclusion of displaying the selected displayed discrete selectable item of data (paragraph [0012]). Heuvelman, while disclosing that a characterizing descriptor related to a discrete selectable item of data that has just ended (a recent history of content, para. [0015]) may be used to identify another discrete selectable item of data, and further disclosing that this identification may occur before the conclusion of the currently viewed program, Heuvelman does not explicitly disclose wherein characterizing descriptor related to a currently displayed discrete selectable item of data are used to identify another discrete selectable item of data. However, in analogous art, Maissel teaches that a users' program viewing history can be updated in the users' profile before said user has completed viewing said program, such as after a predetermined threshold period viewing time, such as two or five minutes (Figs. 4-6, col. 17, ln. 17-53). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Heuvelman to allow for the currently viewed program to be used to determine a recommendation for an upcoming program, as the profile information could have been already updated as per the teaching of Maissel.

Regarding claim 11, Heuvelman discloses **wherein the plurality of discrete selectable items of data comprises a plurality of discrete selectable items of audio/visual content** (paragraph [0009], lines 11-19).

Regarding claim 12, Heuvelman discloses **further comprising: a remote control device** (paragraph [0029]).

Regarding claim 13, Heuvelman discloses **wherein the remote control device comprises at least one key to trigger the display of information regarding the at least another one of the plurality of discrete selectable items of data** (paragraph [0037]).

Regarding claim 14, Heuvelman discloses **wherein the control circuitry further displays information regarding the at least another one of the plurality of discrete selectable items of data at a time that is temporally proximal to a conclusion of displaying the selected discrete selectable item of data** (paragraph [0012]).

Regarding claim 15, Heuvelman discloses **wherein the information regarding the at least another one of the plurality of discrete selectable items of audio/visual content comprises at least one of: a graphic image; a video sequence** (paragraph [0009], lines 11-19).

5. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heuvelman (Pub. No.: US 2003/0126600) in view of Maissel et al. (Pat. No.: US 6,637,029), and further in view of Gottsman (Pub. No.: US 2004/0139100).

Regarding claim 16, the combined teaching of Heuvelman and Maissel disclose **the method of claim 1**, but neither explicitly disclose **wherein the characterizing descriptors comprise a source of each of the plurality of discrete selectable items**. However, in analogous art, Gottsman teaches that characterizing descriptors related to a program can include the source of the content (Fig. 9, element 950, para. [0066]. The country of origin is a source of the discrete selectable items.). Therefore, it would have

Art Unit: 2426

been obvious to one of ordinary skill in the art at the time of the invention to allow for the characterizing descriptors of Heuvelman to include a source of the content, as any detailed information about a program can be useful when using it to recommend other programs.

Regarding claim 17, the combined teaching of Heuvelman and Maissel disclose **the method of claim 1**, but neither explicitly disclose **wherein the characterizing descriptors comprise a textual plot summary of each of the plurality of discrete selectable items**. However, in analogous art, Gottsman teaches that characterizing descriptors related to a program can include a textual plot summary of the content (Fig. 9, element 946, para. [0066]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to allow for the characterizing descriptors of Heuvelman to include a textual plot summary of the content, as any detailed information about a program can be useful when using it to recommend other programs.

Regarding claim 18, the combined teaching of Heuvelman and Maissel disclose **the method of claim 1**, but neither explicitly disclose **wherein the characterizing descriptors comprise an author, artist or actor associated with each of the plurality of discrete selectable items**. However, in analogous art, Gottsman teaches that characterizing descriptors related to a program can include an actor associated with the content (Fig. 9, element 946, para. [0066]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to allow for the characterizing descriptors of Heuvelman to include an actor associated with the content, as any detailed information about a program can be useful when using it to recommend other programs.

6. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heuvelman (Pub. No.: US 2003/0126600) in view of Maissel et al. (Pat. No.: US 6,637,029), and further in view of Zimmerman et al. (Pub. No.: US 2003/0106058).

Regarding claim 19, the combined teaching of Heuvelman and Maissel disclose **the method of claim 1**, but neither explicitly disclose **wherein providing at least one selection criterion comprises: determining that the user has designated one or more of the characterizing descriptors as individually correspond to a plurality of discrete selectable items of data as the preferred characterizing descriptors; and using the preferred characterizing descriptors as correspond to the selected discrete selectable item of data to provide the at least one selection criterion.** However, in analogous art, Zimmerman discloses that a user can select a criteria to be a preferred criteria, and to then use that criteria in the process of recommending other programming (para. [0025]. The “most recent watched” can be used at 100%, meaning it would be the preferred criteria.). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to allow for one of the characterizing descriptors of Heuvelman to be chosen as a preferred descriptor. This would have produced predictable and desirable results, in that the user could have more input into how the system recommended programming.

Regarding claim 20, the combined teaching of Heuvelman and Maissel disclose **the method of claim 1**, but neither explicitly disclose **further comprising: enabling assigning weights corresponding to the significance of one or more of the**

characterizing descriptors as individually correspond to a plurality of discrete selectable items of data as compared to others; determining the weight assigned to the characterizing descriptors as correspond the selected discrete selectable item of data used to provide the at least one selection criterion; and identifying the at least another one of the plurality of discrete selectable items of data at least in part based on the determined weights. However, in analogous art, Zimmerman discloses that a user can assign weights to criteria, and to then use said criteria in the process of recommending other programming (para. [0025]. The “most recent watched” can be used at 70%, while the “most watched” can be assigned at 30%, giving weights to both criteria.). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to allow for the characterizing descriptors of Heuvelman to be assigned weights. This would have produced predictable and desirable results, in that the user could have more input into how the system recommended programming.

Response to Arguments

7. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new grounds of rejection.

Examination Considerations

8. The claims and only the claims form the metes and bounds of the invention. “Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969)” (MPEP p 2100-8, c 2, l 45-48; p 2100-9, c 1, l 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.
9. Examiner’s Notes are provided with the cited references to prior art to assist the applicant to better understand the nature of the prior art, application of such prior art and, as appropriate, to further indicate other prior art that maybe applied in other office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution. However, and unless otherwise stated, the Examiner’s Notes are not prior art but a link to prior art that one of ordinary skill in the art would find inherently appropriate.
10. Unless otherwise annotated, Examiner’s statements are to be interpreted in reference to that of one of ordinary skill in the art. Statements made in reference to the condition of the disclosure constitute, on the face of it, the basis and such would be obvious to one of ordinary skill in the art, establishing thereby an inherent prima facie statement.

Art Unit: 2426

11. Examiner's Opinion: ¶¶ 8.-10. apply. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA TAYLOR whose telephone number is (571) 270-3755. The examiner can normally be reached on 8am-5pm, M-F, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hirl can be reached on (571) 272-3685. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Josh Taylor/

Examiner, Art Unit 2426

Art Unit: 2426

/Joseph P. Hirl/

Supervisory Patent Examiner, Art Unit 2426

October 1, 2009